

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent Application of:  
Tomohiro MATSUSHIMA et al.

Application No.: 10/577,531

Confirmation No.: 9835

Filed: April 28, 2006

Art Unit: 1625

For: CRYSTALLINE FORM OF THE SALT OF 4-  
(3-CHLORO-4-  
(CYCLOPROPYLAMINOCARBONYL)AMIN  
OPHENOXY)-7-METHOXY-6-  
QUINOLINECARBOXAMIDE OR THE  
SOLVATE OF THE SALT AND A PROCESS  
FOR PREPARING THE SAME

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Examiner: D.M.M. SEAMAN

**REQUEST FOR RECONSIDERATION OF  
PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Madam:

Applicants note that the 453 days of Patent Term Adjustment (PTA) as indicated on the Determination of Patent Term Adjustment under 35 U.S.C. § 1.54(b) mailed on March 3, 2009 for the above-captioned application disagrees with Applicants' own calculation of PTA.

The calculation of PTA days should be 586 days in credits. Thus, the PTA in this patent should be a total of **586 days**.

The U.S. Patent and Trademark Office's Patent Term Adjustment History, as indicated in the Patent Application Information Retrieval (PAIR) system (copy attached) does not show any days of credit to the Applicants for failure to issue a patent within three (3) years (36 months) from the actual filing date of the application (37 C.F.R. § 1.702(b)). However, according to the Applicants' calculations, in accordance with the recent District Court decision in *Wyeth et al. v. Dudas*, Civil Action No. 07-1492 (D.D.C. September 30, 2008), the total credit to the Applicants for the failure of the U. S. Patent and Trademark Office to issue a patent within three (3) years of

the actual filing date of the application (37 C.F.R. § 1.702(b)) should be 133 days. Applicants are entitled to any delay under 35 U.S.C. § 154(b)(1)(A) as well as under § 154(b)(2)(B) and § 154(b)(1)(C).

Accordingly, Applicants hereby request that the U. S. Patent and Trademark Office correct the calculation of the Patent Term Adjustment for the above-identified patent to **586 days**.

The present patent is not subject to any Terminal Disclaimer and any expiration date specified in a Terminal Disclaimer (§ 1.705(b)(2)(iii)).

There were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of the above-identified application (§ 1.705(iv)(B)).


#### PAYMENT OF FEES

As set forth in the attached Fee Transmittal, the Commissioner is hereby authorized to charge the amount of \$200.00 to Deposit Account No. 02-2448 for the consideration of this Request as required by 37 C.F.R. § 1.18(e).

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required.

Dated: MAY 14 2009

Respectfully submitted,

By  #48,21  
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Attachment: Copy of PAIR Patent Term Adjustment History

10/577,531	CRYSTALLINE FORM OF THE SLAT OF 4-(3-CHLORO-4-(CYCLOPROPYLAMINOCARBONYL)AMIN OPHENOXY)-7-METHOXY-6-QUINOLINECARBOXAMIDE OR THE SOLVATE OF THE SALT AND A PROCESS FOR PREPARING THE SAME	05-13-2009::11:07:44
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### Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 10/577,531

Filing or 371(c) Date:	04-28-2006	USPTO Delay (PTO) Delay (days):	453
Issue Date of Patent:	-	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL) Delay (days):	0
Post-Issue Petitions (days):	+0	Total PTA (days):	453
USPTO Adjustment(days):	+0	Explanation Of Calculations	

### Patent Term Adjustment History

Date	Contents Description	PTO(Days)	APPL(Days)
03-03-2009	Mail Notice of Allowance		
02-26-2009	Notice of Allowance Data Verification Completed		
02-26-2009	Case Docketed to Examiner in GAU		
02-26-2009	Document Verification		
12-19-2008	Information Disclosure Statement considered		
12-19-2008	Reference capture on IDS		
12-19-2008	Information Disclosure Statement (IDS) Filed		
01-22-2009	Date Forwarded to Examiner		
12-19-2008	Response after Non-Final Action		
12-19-2008	Information Disclosure Statement (IDS) Filed		
09-23-2008	Electronic Review		
09-23-2008	Email Notification		
09-23-2008	Mail Non-Final Rejection	453	
09-18-2008	Non-Final Rejection	⬆	
03-20-2007	Information Disclosure Statement considered	⬆	
09-26-2006	Information Disclosure Statement considered	⬆	
04-28-2006	Information Disclosure Statement considered	⬆	
10-10-2007	Case Docketed to Examiner in GAU	⬆	
07-07-2007	IFW TSS Processing by Tech Center Complete	⬆	
03-20-2007	Information Disclosure Statement (IDS) Filed	⬆	
03-20-2007	Substitute Specification Filed	⬆	
03-20-2007	Preliminary Amendment	⬆	
09-26-2006	Information Disclosure Statement (IDS) Filed	⬆	
04-28-2006	Request for Foreign Priority (Priority Papers May Be Included)	⬆	
04-28-2006	Reference capture on IDS	⬆	
04-28-2007	Information Disclosure Statement (IDS) Filed	⬆	
04-28-2006	Preliminary Amendment	⬆	
04-28-2006	Information Disclosure Statement (IDS) Filed	⬆	
09-26-2006	Information Disclosure Statement (IDS) Filed	⬆	

03-20-2007	Information Disclosure Statement (IDS) Filed	⬆
05-05-2007	Electronic Review	⬆
05-04-2007	Email Notification	⬆
04-28-2006	371 Completion Date	⬆
04-24-2007	Application Dispatched from OIPE	⬆
04-24-2007	Notice of DO/EO Acceptance Mailed	⬆
04-10-2007	Electronic Review	⬆
04-09-2007	Email Notification	⬆
04-09-2007	PG-Pub Issue Notification	⬆
05-25-2006	Cleared by OIPE CSR	⬆
04-28-2006	Initial Exam Team nn	⬆

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